

Panaji, 14th July, 2003 (Ashada 23, 1925)

SERIES I No. 15

OFFICIAL GAZETTE



GOVERNMENT OF GOA

EXTRAORDINARY

No. 5

GOVERNMENT OF GOA

Department of Forest

Notification

9/9/2001-FD

In exercise of the powers conferred by section 36 read with sub-section (5) of section 9 of the Goa, Daman and Diu Preservation of Trees Act, 1984 (Act No. 6 of 1984), the Government of Goa hereby makes the following rules so as to further amend the Goa, Daman and Diu Preservation of Trees Rules, 1983, as follows:—

1. *Short title and commencement.*— (1) These rules may be called the Goa Preservation of Trees (Amendment) Rules, 2003.

(2) They shall come into force at once.

2. *Insertion of new rule 6A.*— In the Goa, Daman and Diu Preservation of Trees Rules, 1983, after rule 6, the following rule shall be inserted, namely:—

“6A. *Tree felling fee and security deposit.*— The permission granted under sub-section (5) of section 9 shall be subject to the payment of a tree felling fee and security deposit as follows:—

(a) Tree felling fee Rs. 100/- per tree.

(b) Security deposit for Rs. 200/- per tree.”. ensuring regeneration of the area and replantation of trees or otherwise.

By order and in the name of the Governor of Goa.

V. R. Ghaisas, Under Secretary (Forests).

Panaji, 14th July, 2003.

Department of Law & Judiciary

Legal Affairs Division

Notification

7/19/2003/LA

The Goa Children's Act, 2003 (Goa Act 18 of 2003), which has been passed by the Legislative Assembly of Goa on 30-4-2003 and assented to by the Governor of Goa on 8-7-2003, is hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 14th July, 2003.

The Goa Children's Act, 2003

(Goa Act 18 of 2003) [8-7-2003]

AN

ACT

to protect, promote and preserve the best interests of Children in Goa and to create a society that is proud to be child friendly.

BE it enacted by the Legislative Assembly of the State of Goa in the Fifty-fourth Year of the Republic of India, as follows:-

1. *Short title, extent and commencement.*—

(1) This Act may be called the Goa Children's Act, 2003.

(2) It shall extend to the whole of the State of Goa.

(3) It shall come into force at once.

2. *Definitions.*— In this Act, unless the context otherwise requires,—

(a) "authorised officers" means officers that are appointed as such under the provisions of this Act;

(b) "A care giver" is a person who is responsible for looking after the well being of the child. This person may be a staff member of any residential facility for children, an employee of an educational institution, a nursery, crèche, a clinic, a hospital, a sports club, a recreational facility or an employee of any facility which provides services to children;

(c) "A place of care" of children are all the places mentioned in clause (b) and any other place which is a place for the care and custody of children;

(d) "Child" means any person who has not completed eighteen years of age unless any other law in force specifies otherwise or unless otherwise indicated in specific provisions in this Act;

(e) "Child in case of child labour", shall be a person who has not completed his fourteenth year of age;

(f) "Children's Home" means an institution, whether called an orphanage, home or by any other name and where one or more children reside, either fully or partly;

(g) "Chief Secretary" means the Chief Secretary to the Government of Goa;

(h) "Children's Court" means the Court constituted under section 27;

(i) "Competent authority" means the Secretary to the Government in charge of the Department of Women and Child Development;

(j) "Child labour" means all forms of labour involving children below the age of fourteen;

(k) "Certificate" means the certificate of registration granted under section 6;

(l) "Child in need" means all children including those whose rights are being violated or who need special attention and/or protection and shall include, for the purposes of this Act:—

(i) Child in need of care and protection and juvenile in conflict with law as defined in the Juvenile Justice(Care and Protection of Children) Act, 2000 (56 of 2000).

(ii) Child labour;

(iii) Street Children;

(iv) A child who has been dedicated;

(v) A foetus;

(vi) An adopted child;

(vii) A child in a Home, registered or otherwise;

(viii) A child in foster-care;

(ix) Child in situation of abuse;

(x) A differently abled child;

(xi) Children of prisoners,

(xii) Children of commercial sex workers;

(xiii) A child who is vulnerable.

(xiv) A child whose parents are separated or divorced;

(xv) A child who has an illness or disease or ailment which has a social stigma attached to it eg. HIV, Leprosy.

(m) "Child abuse" refers to the maltreatment, whether habitual or not, of the child which includes any of the following:—

- (i) psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment;
- (ii) any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- (iii) unreasonable deprivation of his basic needs for survival such as food and shelter; or failure to immediately give medical treatment to an injured child resulting in serious impairment of his growth and development or in his permanent incapacity or death;

(n) "Dedication" means the performance of any act or ceremony by whatever name called, by which a girl child is dedicated to the service of any deity, idol, object of worship, temple, other religious institutions or places of worship;

(o) "Director" means the Director of the Directorate of Women and Child Development;

(p) "Fund" means the State Children's Fund constituted under section 14;

(q) "guardian" in relation to a child means his natural guardian or any other person who is legally authorised for the purpose of having the actual charge or control over the child;

(r) "High risk" areas means those areas in which children are vulnerable to exploitation as notified by the Government in the Official Gazette;

(s) "Offence" means an act or omission made punishable under any law for the time being in force;

(t) "prescribed medical authority" means that authority whose certificate on the age of a child shall be conclusive evidence as to the age of the child to whom it relates;

(u) "prescribed" means prescribed by rules under this Act;

(v) "registered children's home" means a children's home which has been registered under this Act;

(w) "Secretary" means the Secretary to the Government in charge of the Department of Women and Child Development;

(x) "Sexual Offence" covers all forms of sexual abuse which constitute offences under this Act;

(y) 'Sexual offences' for the purposes of awarding appropriate punitive action means and includes,—

(i) "Grave Sexual Assault" which covers different types of intercourse: vaginal, oral, anal, use of objects, forcing minors to have sex with each other, deliberately causing injury to the sexual organs, making children pose for pornographic photos or films;

(ii) Sexual Assault which covers sexual touching with the use of any body part or object, voyeurism, exhibitionism, showing pornographic pictures or films to minors, making children watch others engaged in sexual activity, issuing of threats to sexually abuse a minor, verbally abusing a minor using vulgar and obscene language;

(iii) Incest which is the commission of a sexual offence by an adult on a child who is a relative or is related by ties of adoption.

(z) "child trafficking" means the procurement, recruitment, transportation, transfer, harbouring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise.

(za) 'Differently Abled Children' includes children with disabilities, learning difficulties and associated disorders like Autism.

3. *Rights of the Child.*— (1) The State shall ensure that children and the young are protected against exploitation and that they are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.

(2) Childhood and youth shall be protected against exploitation and against moral and material abandonment.

(3) The State shall promote with special care the educational interests of children from the weaker sections of society including the Scheduled Castes and Scheduled Tribes.

(4) The State shall regard the raising of the level of nutrition and the standard of living as well as the improvement of public health as among its primary duties.

(5) The provisions of the Convention on the Rights of the Child as acceded to by the Government of India are hereby declared to be part of the law of the land and it shall be the duty and responsibility of the State Government to respect and ensure that the Rights of the Child as declared and enumerated in the Convention, are protected and guaranteed to every child within the territory of Goa.

(6) For the proper implementation of the Rights of the Child included in the Convention and to prevent any discrimination, exploitation or abuse of the child on any ground, government shall take adequate measures;

(7) All the authorities, whether public or private, social welfare institutions, or legislative bodies shall, while undertaking any action concerning children, take the best interest of the child as the primary consideration.

(8) The provisions of the Convention on the Rights of the Child are taken as rights of the child in Goa and are legally enforceable, except where they pertain to the central government or to any other authority which is outside the purview of the state government provided that nothing in this section shall restrain the government from specifying higher standards for children.

4. *Education.*— (1) The State shall endeavour to promote holistic education. Universal application of joyful learning processes should be ensured.

(2) The State accepts the concept of zero rejection for children. No child shall therefore be denied admission to any school on any ground including that the name of the father is not available; the absence of relevant documentation;

the child is suffering from HIV or AIDS; belongs to marginalised communities; suffers from any illness or that the child is differently abled.

(3) All schools shall have a trained counsellor for providing counselling facilities to children. In mixed schools, there shall be one male and one female counsellor. The State shall provide assistance to all schools to achieve this.

(4) All schools shall include child rights and gender justice in their curriculum and at least 48 hours of instruction every year shall be exclusively devoted to teaching and discussing all matters related to these. The duties of the child should also be discussed during these sessions. This will apply to all students from Standard V and above.

(5) The school curriculum shall also include health awareness including malaria, AIDS, personal hygiene, nutrition, family life education, communicable diseases, alcoholism, substance abuse, etc., irrespective of the stream of education. This will apply to all students from Standard V and above.

(6) Health applied education towards holistic health shall be compulsorily included in all schools with, among other things, yoga, pranayama and meditation, in the physical education curriculum. This will apply to all students.

(7) All schools shall have elected Student Councils or any other mechanism such as School Parliament to foster participatory democratic processes. This will apply to all students from Standard VIII and above.

(8) The Government shall work towards the goal of universal elementary education and eradication of child illiteracy within a period of three years from the commencement of this Act. The State shall prepare a comprehensive Plan of Action for achieving this which may include provision for alternate schooling including non-formal education, vocational and livelihood-skills training, and shall create the necessary infrastructure and an enabling environment in order to realise the goal.

(9) The State shall lay down guidelines for early childhood care and education and for all pre-school educational institutions for children, including registration and regulation of standards.

(10) Every school shall have safe drinking water, toilet facilities and adequate physical infrastructure.

(11) Every school shall be equipped with appropriate and adequate teaching aids.

(12) Corporal punishment is banned in all schools.

(13) The State shall, in the manner prescribed, provide support to all children with disabilities and challenges.

(14) A participatory evaluation and learning process rather than the exam system based on learning by rote and ensuring that all children have attained minimum levels of learning should be evolved.

5. *Health & Nutrition.*— (1) Mandatory immunisation with MMR vaccine in children, Rubella vaccine in adolescent girls and Hepatitis B vaccine in infancy should be introduced as part of the ongoing Immunisation programme of the State.

(2) The State shall endeavour to make possible Maternity leave of 6 months in all sectors of employment including for adoptive mothers and single parents.

(3) Creches and day care centres for infants and children of working mothers in all sectors of employment should be set up at the work site or close to the same, in cities and villages, to the maximum extent of available resources.

(4) The State should ensure the creation and maintenance of comprehensive Health cards inclusive of growth and developmental, immunisation and other records for all infants and children including those in creches, homes and schools, and migrant children.

(5) The State shall seek to provide for palliative and terminal care for infants and children with life threatening and terminal illnesses like cancer and HIV/AIDS.

(6) The State shall take effective steps so that parents do not transmit the HIV virus to their child.

(7) It shall be the duty of all individuals, organizations, institutions etc., to keep their immediate environment clean and free of garbage,

faeces, and other items harmful to children. Non-observance of the provisions of this sub-section will carry a penalty which may range from Rs. 100/- to Rs. 1000/-.

(8) The State shall strive to reach higher standards for children by protecting them from malaria and from all avoidable illness and diseases.

(9) Special provisions shall be made for the treatment, education and integration of all children with leprosy.

(10) Special attention shall be given to issues of substance, drug and alcohol abuse in children.

6. *Children's Homes.*— (1) All Children's Homes must be registered under this Act. Such Children's Homes as have already been set up prior to the commencement of this Act shall apply and must register themselves with the Director in the prescribed form within three months from the commencement of this Act.

(2) The provisions of this section shall not apply to:—

(a) any hostel, etc., directly regulated by a recognized educational institution;

(b) any school, home, or any other institution for children which is recognized by any other Act in force in the State;

(3) The State shall set up District Inspection Teams for the regulation, supervision and control of all Children's Homes in the State.

(4) The members of the District Inspection Team shall be appointed by the Secretary;

(5) The term of Office of a Member of the District Inspection Team shall be two years.

(6) A Member may at any time resign by giving notice in writing to the Secretary. The vacancy so created shall be filled in by the Secretary within two months.

(7) If, for any reason, the State Government considers it necessary to remove a Member, then it shall do so after recording its reasons in writing.

(8) On and from the commencement of this Act, no person shall maintain or conduct any Home except under, and in accordance with, the conditions of a certificate of registration granted under this Act.

(9) Every person desiring to maintain or run a home shall make an application for a certificate of registration to the Director in such form and containing such particulars as may be prescribed.

(10) Provided that a person maintaining or conducting a home at the commencement of this Act shall be allowed a period of three months from such commencement to apply for such certificate get themselves registered under this Act.

(11) The District Inspection Team, after scrutiny of the application form and after checking all other requirements, may grant or refuse an application for registration to run the home stating the reasons and with the prior approval of the Secretary. Criteria for granting registration and provisions for revoking of a registration shall be as prescribed.

(12) The Chief Functionary of the Children's Home can be authorized to surrender the registration by the Governing Body or Trust through a resolution passed, and can give an application to the District Inspection Team stating the desire to surrender the registration. However, the application has to be made six months in advance. The District Inspection Team has to arrange for another management to take over or entrust the Home/Institution to the State.

(13) Functions of the District Inspection Team shall include:

- (a) Supervision and control generally of all matters relating to the management of homes in accordance with the provisions of this Act.
- (b) Checking the application of those parties who have applied for a registration and taking a decision before giving them permission to start an institution, after scrutinizing all the papers.

(14) After a child completes 18 years, a report has to be prepared and submitted to the District Inspection Team, indicating the

progress and mental state of the child and provisions for further support.

(15) In the event of death of an inmate, the Home shall submit a comprehensive report to the District Inspection Team.

7. *Child Labour.*— (1) Child Labour shall be prohibited in the State of Goa for all children who have not completed their 14th year of age.

(2) For the purpose of this Act, Child labour shall include:—

- (a) all forms of hazardous employment as defined in the Child Labour (Prohibition and Regulation) Act, 1986;
- (b) all forms of non-hazardous employment as defined in the Child Labour (Prohibition and Regulation) Act, 1986 (Act 61 of 1986) and Goa, Daman and Diu Shops and Establishments Act, 1973 (Act No. 13 of 1974) and Goa, Daman and Diu Shops and Establishments Rules, 1975;
- (c) all forms of domestic employment, meaning employment in households, doing work of a domestic nature, either temporarily, permanently, piece-rated or part time;
- (d) all forms of self employment meaning labour such as rag picking, plastic bag selling, nut selling, running errands, carrying load of shoppers etc.

(3) All Children who are identified as child labourers shall be immediately released therein and placed in a registered Children's Home or a State run institution or any other place identified under the Plan of Action.

(4) The State shall ensure that a satisfactory Rehabilitation Programme is in position before taking action on this.

(5) The punishment for violation of the provisions of this Section shall be as under:—

- (a) for all forms of hazardous employment, a fine of Rs. 50,000/- (Rupees fifty thousand only) with simple imprisonment of one year for the employer;
- (b) for all forms of non-hazardous employment, a fine of Rs. 25,000/- (Rupees twenty five

thousand only) and simple imprisonment of three months for the employer;

- (c) for all forms of domestic labour, a fine of Rs. 50,000/- (Rupees fifty thousand only) for the person employing the domestic child labour.

(6) The State shall formulate a comprehensive Plan of Action to eradicate all forms of Child Labour within a period of two years from the commencement of this Act. The Plan shall include schemes for the identification, release and rehabilitation of the child labourers, their education, integration into society and imparting skills and vocational training to them and for the prevention of child labour.

(7) The Plan of Action shall be implemented phase-wise over this period of 2 years and the Government shall specify the dates from which each of the penal action in sub-section(5) above shall be effective and full publicity to this shall be given by the Director.

(8) There shall be a Child Labour Vigilance Officer in each Taluka to monitor the implementation of the Plan of Action to eliminate child labour, and to carry out such other duties as the Government may specify. The Officer shall be assisted by a Task Force of such other persons as may be prescribed.

(9) Trafficking in Children for the purposes of employment shall be prohibited under this Act. Any person who employs, aids or abets in the trafficking, including by employment of such trafficked children shall be penalised with a fine of Rs. 50,000/- and/or imprisonment of either description of not less than three months.

8. *Child Abuse.*— (1) All children should be assured of a safe environment. A safe environment is an environment in which he/she will not be abused in any way and his/her development will be nurtured.

(2) Whosoever commits any sexual assault as defined under this Act, shall be punished with imprisonment of either description for a term that may extend to three years and shall also be liable to fine of Rs. 1,00,000/-. Whoever commits any Grave Sexual Assault shall be punished with imprisonment of either description for a term that shall not be less than seven years

but which may extend to ten years and shall also be liable to a fine of Rs. 2,00,000. Whoever commits incest shall be punished with imprisonment of either description for a term of one year plus fine of Rs. 1,00, 000/-. Testimony of the child victim shall be treated on par with the testimony of a child rape victim under Section 375 of the IPC, as laid down by the Supreme Court of India.

(3) When a sexual assault or a grave sexual assault is committed, the need to ascertain whether a child needs to be medically examined or not shall be decided by the investigating authorities in consultation with a professional social worker/counsellor.

(4) *Onus on person.*— It has been found that adults "keep" children with them for a number of ostensible reasons and in many cases this is an arrangement for the sexual abuse of the child. All persons, who keep with them or reside wholly, partly or in any form with one or more child/children who is not related to them by blood, shall inform this fact immediately to the Director as per the prescribed form. It will be the responsibility of the person to give this information either in person and obtain a receipt or to send the information by Registered Post A/D.

(5) Provided that a period of 3 months from the commencement of this Act will be allowed to inform the Director.

(6) The Director shall have the power to authorize the District Inspection Team to inspect and check the child/children in each case under sub-section (4) and to submit a report with recommendations, if he considers it necessary.

(7) In cases where it is found necessary, action will be taken to remove the child and place him in a registered Children's Home or a State run institution.

(8) Provided further that nothing in this section shall apply to cases where reasonability exists such as when the child/children are staying with their friends or visiting them on holidays for short period, or students are in a group, or the child is legally adopted etc.;

(9) Any refusal to inform the Director beyond the period of 3 months shall make the person(s)

liable to a fine of Rs. 1,00,000/- and also simple imprisonment for one year if it is found that the provisions of this section have been violated. This will be in addition to any other punishment that may be enforced.

(10) *Onus on Establishment:*— (a) All Hotels, and other establishments which provide boarding or lodging or any similar facility shall ensure that children are safe and not at risk of child abuse within their premises including all adjoining beaches, parks etc. if they have access from such establishment.

(b) No child shall be allowed to enter any room of any hotel or establishment which provides boarding or lodging or any similar facility unless the child is registered as staying in that room with family, relatives or person related by blood:

Provided that nothing in this Sub-Section will be deemed to apply to reasonable areas such as group of school children accompanied by a teacher (s), children who may be staying with their friends and their families, etc.

(c) All Hotels and other establishments which provide boarding or lodging or any similar facility shall ensure that no child has access to any internet facilities which are not fitted with filters and to any objectionable material including through film or videos, disc-players, cable or any other medium provided by that establishment.

(d) The Owner and the Manager of the hotel or establishment shall be held solely responsible for any violation of this section.

(11) Offence in case of tourism related child sexual abuse, shall be non-bailable offence as defined under Section 2 (a) of the Code of Criminal Procedure, 1973.

(12) Any form of soliciting or publicizing or making children available to any adult or even other children for purposes of commercial exploitation is prohibited. This includes hosting websites, taking suggestive or obscene photographs, providing materials, soliciting customers, guiding tourists and other clients, appointing touts, using agents, or any other form which may lead to abuse of a child.

(13) Whosoever commits the offence of sale of children or aids or abets the sale of a child or the body part/organ of a child, or where there is sufficient reason to believe is keeping a child for the purpose of using or selling any body part of the child including its blood, shall be punished by imprisonment of either description for a period of not less than one year extendable to three years and a fine of not less than Rs. 50,000/-

(14) It shall be mandatory for a developer of photographs or films, if he finds that the photos/films developed by him contain sexual/obscene depictions of children, to report this to a police officer not below the rank of a Deputy Superintendent of Police to be specified by the Government. Failure to report the discovery of such photos/films shall attract a penalty of an imprisonment of either description which shall not be less than one year but which may extend to three years and/or a minimum penalty of Rs. 50,000/-.

(15) Airport authorities, border police, railway police, traffic police shall report any suspected case of trafficking of children or an adult travelling with a child under suspicious circumstances. Such adults may be detained for questioning at the nearest police station.

(16) Sale of children under the garb of adoption or otherwise shall be prohibited. For the purposes of this Act, sale of children takes place,—

(a) when there is trading, i.e. selling children;

(b) when a pregnant mother executes an affidavit of consent for adoption for a consideration;

(c) when a person, agency, establishment or child-caring institution recruits women or couples to bear children for the purposes of child trafficking;

(d) when a doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person creates birth records for the purpose of child trafficking; or

(e) when a person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centres,

or other child-caring institutions, who can be offered for the purposes of child trafficking;

(17) Sale of a body part/organ of a child is prohibited.

(18) In all matters, the consent or willingness or otherwise of the child to be party to sexual abuse will not be a consideration.

(19) The State shall provide for the setting up of one or more Victim Assistance Units which shall facilitate the child to deal with the trauma of abuse and assist the child in processes involved with appearing as a witness before any Court or authority handling a case of abuse of a child.

(20) The State shall carry out child sensitisation programmes for police officers at all levels which shall include an orientation on child rights laws. Child rights laws and methods of handling child abuse related cases shall also be specifically included in the Police Training School curriculum.

(21) The State shall undertake child sensitization training for those involved in healing and rehabilitation and other assistance programmes for children who are victims and promote programmes of information support and training for such children.

(22) The Tourism Department of the Government shall collaborate with the Travel and Tourism Trade of Goa to evolve a Child Friendly Tourism Code for Goa;

(23) The Government shall have the power to appoint persons to go undercover and pose as prospective clients for child prostitutes, as employers of child labour etc. and nothing done in the course of such operations shall be construed as a violation of the provisions of this Act.

9. Child Sexual Trafficking.— (1) Child prostitution shall be prohibited.

(2) It shall be the duty of the State to remove all child prostitutes from their existing place of exploitation and to ensure that they are rehabilitated and integrated into society.

(3) The State shall prepare a comprehensive Plan of Action for this purpose which shall include providing education and livelihood skills

to such children and the prevention of child prostitution.

(4) Any person who exploits a child for commercial sexual exploitation shall be liable to pay a penalty which may extend to Rs. 1,00,000/- and simple imprisonment of one year. This will be in addition to any penalty or punishment that may be enforced under any other Act in force.

(5) All steps shall be taken at the protective home to restrict or even deny the visiting rights of any one who may be considered to be a perpetrator, including the parent of the child.

(6) Notwithstanding any custom or law to the contrary, the dedication of a minor girl child as a devadasi, whether before or after the commencement of this Act, and whether she has consented to such dedication or not, is hereby declared unlawful, void, and to be of no effect and any minor girl child so dedicated shall not thereby be deemed to have become incapable of entering into a valid marriage.

(7) Any person who, after the commencement of this Act, abets the performance of any ceremony or any act for dedicating a minor girl child as a devadasi or and ceremony or act connected therewith shall, on conviction, be punished with imprisonment of either description for a term which may extend to 3 years and with fine which may extend to two thousand rupees:

Provided that where the person referred to in this Section is the parent or guardian or a relative of the women so dedicated, he shall be punishable with imprisonment of either description which may extend to 5 years but which shall not be less than 2 years and with fine which may extend to five thousand rupees but which shall not be less than two thousand rupees.

10. Children in Difficult Circumstances.— (1) The State shall endeavour, within a period of two years from the commencement of this Act, to withdraw all street children from life on the streets.

(2) All Street Children shall be withdrawn and placed in a Registered Children's Home or a State run institute or any other place provided that a satisfactory rehabilitation programme is in place before this is started.

(3) The Government shall formulate a Plan of Action for the education, rehabilitation, education and integration into society of these children.

(4) The State Government shall establish and maintain, either by itself or in association with the voluntary organizations, Children Shelters in every taluka for the reception of children in difficult circumstances, their rescue and support and for coordinating subsequently their care, treatment, education, training, development and rehabilitation.

11. *Girl Child*.— The State shall develop and implement comprehensive policies, plans of action and programmes for the survival, protection, development and advancement of the girl-child to promote and protect the full enjoyment of her human rights and to ensure equal opportunities for girls and all these plans should form an integral part of the total development process.

(2) The State shall ensure elimination all forms of discrimination against the girl-child which result in harmful and unethical practices, such as pre-natal sex selection and female foeticide and infanticide and towards this the State shall promote and support all endeavours that help give the girl child a sense of self-esteem, which would include gender sensitisation programmes at all levels. Special attention will be focused on taking strict action against eve teasing and on all conditions which create an unsafe atmosphere for girls.

(3) The State shall encourage educational institutions and the media to adopt and project non-stereo typed images of girl and boys and to eliminate child pornography and degrading and violent portrayals of the girl-child;

(4) The State shall ensure dissemination of information and education to girls, regarding the physiology of reproduction, reproductive and sexual health.

12. *Differently Abled Children*. — (1) The State shall endeavour to ensure that disabilities which can be prevented in children are prevented. Schemes to take timely preventive measures may be introduced and these may separately cover women during pregnancy, mothers during lactation, children below the age of one, children between the ages of one and six years, and adolescent boys and girls. Initiatives may include

mandatory screening of all new born babies and rubella vaccination of all pregnant women;

(2) The census of all disabled children in the State shall be updated;

(3) As far as possible, appropriate initiatives for each child shall be taken in a time bound manner to be prescribed;

(4) A scheme for providing counseling and support to parents of differently abled children shall be launched.

(5) A special plan of action on prevention, early detection and early intervention programs, inclusive education and vocational training, central/institutional and community based programmes shall be evolved by the State at the earliest.

13. *Other Provisions*.— (1) The Government shall create the State Children's Fund for raising and coordinating resources for achieving the purposes of this Act.

(2) There shall be credited to the fund such voluntary donations, contributions or subscriptions as may be made by any individual or organization.

(3) All fines imposed under this Act shall be credited to the Fund.

(4) The fund created under sub-section (1) above shall be administered in such manner and for such purposes as may be prescribed.

(5) There shall be a State Level Authority which may be called the State Commission for Children to promote and maintain the best interests of all the children in Goa and which will carry out such functions as may be prescribed. The functions may include the following:—

(a) The creation of a Child Friendly Society;

(b) Preparing and implementing a systematic plan for spreading awareness amongst different groups, mobilization action and dialogue within civil society on Child Rights;

(c) Develop a capacity development strategy for the progressive implementation of Child

Rights covering amongst others the training of teachers, police, judiciary etc.;

- (d) Review all State Legislations, Rules, Orders, Notifications, Schemes and all other provisions pertaining to children and recommend necessary amendments therein, to ensure that the Rights of the Child are protected;
- (e) To monitor the implementation of the Convention on the Rights of the Child;
- (f) To ensure that children become fit citizens and that all children are given the opportunity and encouraged to learn and develop thinking and participatory skills as well as skills of developing and articulating ideas;
- (g) Set up a mechanism to hear complaints from child victims;
- (h) Establish norms for good parenting and evolve a strategy for achieving this;
- (i) Undertake and promote research in the field of Child Rights;
- (j) Prepare disaggregated data on all children in Goa in terms of category, age, sex, etc.;
- (k) Examine the situation regarding children particularly the status of the girl child, assess the reasons for discrimination and recommend strategies for their removal;

(6) The State Level Authority shall be constituted within a period of six months from the commencement of this Act.

(7) For finalizing all the Plans of Action, Government shall set up separate Steering Committees comprising persons with experience in that particular area, social workers, Government officers and others. Officers of the Central Government should participate in the deliberations leading up to the Plans, and Government shall carry out visits to other States to see best practices specially in terms of rehabilitation, education and integration of children. The Steering Committees shall oversee the implementation of the Plans of Action:

(8) There shall be a Village Child Committee which shall be constituted by each village

panchayat. The committee shall comprise not less than five persons of whom one shall be a child above the age of 15 years and the other members shall comprise representatives from the village panchayat and social workers of whom at least 2 should be women. The Village Child Committee shall ensure the best interests of the child and will pay particular attention to providing recreational and play facilities for children. The Village Committees will also interact with the departments of the State Government in the implementation of the Plans of Action for elimination of child illiteracy, children on the streets, child prostitution and child labour, and will carry out such other functions as may be laid out from time to time.

(9) There shall be 4 or more such Child Committees in each Municipal/Corporation areas.

(10) The Government shall institute a system for recognizing and recording appreciation of outstanding work done by individuals, organizations or departments in achieving the best Interests of the Child under this Act.

(11) The Government shall carry out an awareness campaign after the commencement of this Act to appraise the public about the provisions and to solicit their cooperation. Sustained media advocacy will be taken up with NGOs, Women's Groups and others to create public awareness on the issues involved. Doordarshan, the Print Media, Radio, Private Television Channels and cable networks and all other forms of media will be used.

(12) Appropriate guidelines for the protection of children from information and material injurious to their well being as well as harmful exposure in the mass media shall be prepared and implemented. For this purpose, the Government, with the assistance of the State Information Department, shall set up a State Council comprising of persons from the media, and others, as may be prescribed.

(13) All persons appointed by the Government under this Act as Members of District Inspection Teams, Task Forces, Authorized Officers and others shall be persons with the highest credentials and integrity. Their proposed appointment and details shall be printed in the Official Gazette wherever they are non-Government staff and the members of the public shall be given two week's time to file any

complaint against any proposed appointment. The Government shall consider all complaints received before reaching a final decision and the appointments made will be notified in the Official Gazette.

(14) The Police Department shall formulate an exclusive Child Code including issues of Child Friendly Police Stations, interaction and behaviour with children, mandatory sensitization programmes, etc.

(15) The Government shall constitute a Special Advisory Group to suggest ways to protect children from the harmful influences of the internet. The Special Advisory Group shall include, amongst others, experts in the field and members of the police.

(16) No child below the age of 14 shall be allowed unaccompanied inside any cyber café or any other establishment which provides any computer services to the general public against a cost.

(17) All establishments providing training to children through computers shall ensure that child friendly safeguards are installed and that no child below the age of fourteen has access to internet facilities other than in the presence of an adult from that establishment.

(18) The owners of such establishments under sub-sections 16 and 17 will be held responsible in case any child is accessing material or sites unsuitable for children.

(19) All such establishments under sub-sections 16 and 17 shall make their premises freely available to the Special Officers for inspection at any time.

(20) The use of children in the illicit procurement, trafficking and sale of narcotic, psychotropic and alcoholic substances is prohibited and anyone found guilty of transgression shall be severely punished.

(21) Anyone inducing a child to gamble or to assist in the gambling trade shall be liable to a punishment of imprisonment of either description for a period of not less than one year and a fine of not less than rupees fifty thousand.

(22) The State shall make special provision for the children of prisoners and commercial sex workers.

(23) The Competent Authority shall have the power to direct any registered Children's Home to accept any child/children in distress provided that the said Home has the facilities for taking care of the extra child/children.

(24) The decision of the Competent Authority as to who is a "Child" shall be final and binding.

14. *Violation and Penalties.*— (1) The following shall be deemed to be violations of the Rights of the Child:—

(a) non-adherence to or violation of any of the provisions of this Act including those in Section 3.

(b) If the Competent Authority is satisfied, after considering the facts and for reasons to be recorded in writing, that any act of omission or commission constitutes a non-adherence to or violation of any of the provisions of this Act including those in Section 3.

(2) There shall be a Competent Authority which for the purpose of this Act shall be the Secretary to the Government in charge of the Department of Women and Child Development.

(3) The Competent Authority shall have the power to impose penalties for any violation ranging from Rs. 100/- to Rs. 50,000/- on every occasion.

(4) If such fine is imposed on any Government servant for violation of the rights of a child, the fine so imposed shall be paid by the defaulting employee or recovered from his salary or wages.

(5) The decision of the Competent Authority as to whether an action or inaction constitutes a violation of the rights of the child shall be final and binding.

(6) The Competent Authority may, by special order or notification, entrust any or all of its powers and functions on such officers of the Government who shall be designated as Special Officers under the Act.

(7) The Government may notify Authorised Officers who will have the power to entertain

complaints regarding violations of the rights of a child. The Authorised Officers may call for information from any person in Goa regarding such violations. Authorised Officers shall submit their report on each violation, with recommendations and justifications for the same, to the Competent Authority.

(8) The Competent Authority may take action under the provisions of this Act in any case of a child.

(9) *Information regarding violation.*— Any person may give information of a violation to an Authorised Officer, to the Director, to the Competent Authority or a Special Officer.

15. *Powers of the Competent Authority.*—

(1) If the Competent Authority is satisfied, whether upon information received or otherwise, of the violation of the rights of a child, he shall issue a notice, requiring the person or persons who the Competent Authority deems to be responsible for the violation and/or if that person or persons cannot be found then the employer, superior officer, relatives or any other person or persons who the Competent Authority is satisfied as to be responsible for the violation, and take one or more of the following steps, within a period as may be fixed in the notice, and not exceeding sixty days in any case:—

- (a) to dismiss the reference;
- (b) direct the person or persons to take such steps as may be necessary in the best interests of the child;
- (c) to levy a penalty (fine);
- (d) refer the matter to any other authority including the Police;
- (e) any other action the Competent Authority may deem fit and necessary including calling the person(s) for a personal hearing and directing that a child be removed:

Provided that the Competent Authority, for reasons to be recorded in writing, may extend the period specified in such notice.

(2) The Officer-in-charge of the Police Station of the area concerned where the violation reportedly took place shall be duty bound and responsible, when called upon by the Competent Authority or any Special Officer to provide all possible assistance including removing a child.

The officer-in-charge of the police station, shall be answerable and responsible for non-compliance of the requisition made by the Competent Authority or by any Special Officer.

(3) The failure to comply with the directions contained in the notice under sub-section (1) shall be cognizable offence punishable with simple imprisonment for a term which may extend to 30 days or with fine which may extend to Rs. 5000/-, or with both:

Provided that this failure may be compounded by the Competent Authority, if the person agrees to pay a fine of Rs. 5,000/- in the first instance and Rs. 10,000/- in the second instance only. Provided further that this will not prejudice proceedings as per sub-section (1) of this Section.

(4) The Competent Authority or any Special Officer may enter and inspect any premises for the purpose of enforcing any of the provisions contained in this Act including removal of a child from such premises.

Provided that—

- (a) no such entry shall normally be made between sunset and sunrise except when the circumstances so warrant e.g. rescue of a child prostitute who has to work during night hours;
- (b) all such entries shall be made by a group of a minimum of 4 persons to be prescribed, which shall include at least two women;

16. *Penalty for preventing entry of the Competent Authority or Special Officer.*— Every person who prevents the Competent Authority or any Special Officer from exercising his lawful power of entering thereon or there into, shall be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to five thousand rupees, or with both.

17. *Competent Authority's powers in case of default.*— If the person on whom a notice is served under sub-section (1) of Section 15 refuses to take necessary action as specified in such notice within the time specified therein, the Competent Authority may himself take such measures or adopt such treatment and recover the cost of doing so from such person as the

Competent Authority may decide including the employer or relative of the person, in the form of salary or wages, property tax or any other tax.

18. *Appeal against the decision of Competent Authority.*— An appeal against any decision of the Competent Authority shall lie to the Chief Secretary.

19. *Method of serving notices.*— (1) The notice under Sub-Section (1) of Section 15 shall be given—

- (a) by giving or tendering the notice to such person; or
- (b) if such person is not found, by leaving such notice at his last known place of abode or business or by giving or tendering the same to some adult member or servant of his family; or
- (c) if such persons does not reside in the local area and his address elsewhere is known to the local authority, by sending the same to him by post, registered; or
- (d) if none of the means aforesaid be available, by affixing the same in some conspicuous part of such place of abode or business.

20. *Cognizance of offences against Act.*— No person shall be tried for any offence against the provisions of this Act, or any rule, made there under, unless complaint is made by the Police, or the Competent Authority or a Special Officer or by a person expressly authorized in this behalf by the Government:

21. *Powers to compound offences.*— The Competent Authority may compound any violation against this Act or the rules made there under which may, by notification in the Official Gazette be declared compoundable.

22. *Power to police officers to arrest offenders against Act, etc.*— Any police officer who sees a person committing a violation against any of the provisions of this Act or of any rules made there under, may arrest such person.

23. *Powers of the Special Officer to arrest offender against Act, etc.*— Any Special Officer who sees a person committing a violation against

any of the provisions of this Act may arrest such person. Any person so arrested shall be handed over to the officer-in-charge of the nearest police station as expeditiously as possible.

24. *Procedure after arrest.*— Any person arrested for an offence under this Act shall be informed, as soon as may be, of the grounds for such arrest and shall be produced before the nearest Magistrate within a period of twenty four hours of such arrest excluding the time necessary for the journey from the place of arrest to the Court of the Magistrate and no such person shall be detained in custody beyond the said period without the authority of a Magistrate.

25. *Punishment for malicious abuse of powers.*— Any person who maliciously abuses any powers conferred on him by, or under this Act shall be punished with imprisonment which may extend to one year or with fine which may extend to one thousand rupees or with both.

26. *Delegation of powers by Government and Competent authority.*— The Government or the competent authority, as the case may be, may, by notification and subject to any restrictions, limitation and conditions specified therein, authorize any person to exercise any one or more of the powers vested in them by this Act and may in like manner withdraw such authority:

Provided that nothing contained in this section shall apply to any powers of the Government to make rules under this Act.

27. *Children's Court.*— (1) The State Government shall, after consultation with the High Court, by Notification in the Official Gazette, constitute a Children's Court for the State of Goa.

(2) In all aspects of its functioning, the Children's Court shall be guided at all times by the best interests of the child and all its procedures, the office, the dress worn by the Members of the legal profession and all others shall be consciously and deliberately Child friendly.

28. *Composition of the Children's Court.*— The Children's Court shall consist of—

(a) a person who is or has been or is qualified to be a District Judge, who shall be its President:

Provided that no appointment under this section shall be made except after consultation with the High Court; and

(b) a Jury of at least 3 persons.

29. *Term of Office.*— (1) The President of the Children's Court shall hold office for a term of five years or upto the age of 65 years, whichever is earlier, and shall not be eligible for reappointment: Provided that he may resign his office in writing under his hand-addressed to the State Government and on such resignation being accepted, his office shall become vacant and may be filled by the appointment of a person possessing the same qualifications.

(2) The salary or honorarium and other allowances payable to and the other terms and conditions of service of the President and the Jury members of the Children's Court shall be as may be prescribed.

(3) The Government shall frame rules regarding the detailed functioning and procedure of the Children's Court, the qualifications and terms of office and other conditions regarding the Jury members, the procedures governing trial by jury and all other related matters.

30. *Jurisdiction of the Children's Court.*—

(1) Subject to the provisions of this Act, the Children's Court shall have jurisdiction to try all offences against children whether such offence is specified under this Act or not;

(2) The quorum for the proceedings of the Children's Court shall be the President and one Jury Member;

(3) The powers of the Competent Authority and the Special Officers under this Act shall not fall within the jurisdiction of the Children's Court.

31. *Powers of the Children's Court.*— (1) The Children's Court shall have all the powers of —

(a) the Court of Sessions under the Code of Criminal Procedure, 1973 (2 of 1974);

(b) a Civil Court for the purpose of summoning and enforcing the attendance of witnesses, compelling the discovery and production of documents and material objects, and administering oath and recording evidence.

(2) Every proceeding of the Children's Court shall be deemed to be a judicial proceeding within the meaning of sections 195 and 228 of the Indian Penal Code, 1860 (45 of 1860).

32. *Procedure of the Children's Court.*— (1) The Children's Court shall follow such procedure as may be prescribed:

Provided that the procedure so prescribed shall be child friendly and shall be deemed to include the following.—

(a) *Age of Innocence* : A child is presumed to be innocent of any malafide or criminal intent upto the age of 7 years in all cases and upto 12 years in cases wherein he is unable to understand the consequences of his action on account of immaturity of understanding.

(b) *Procedural Protection of Innocence*: Procedural safe-guards shall be guaranteed to protect the presumption of innocence;

(c) *Provision of Legal Aid*: To protect the child's right to and presumption of innocence, provisions shall be made, when needed, for free legal aid;

(c) *Avoidance of harm*: At all stages, from the initial contact till disposition, extreme care shall be taken to avoid any harm to the sensitivity of the child.

(d) *Principle of Best interest*: This principle seeks to ensure physical, emotional, intellectual, social and moral development of the child, so as to make him a useful and good citizen by ameliorating the impediments to healthy development.

(e) *Principle of non-stigmatizing semantics, decisions and actions*: Non-stigmatizing semantics must be strictly adhered to, and the use of adversarial or accusatory words, such

as, arrest, remand, accused, charge sheet, trial, prosecution, warrant, summons, conviction, inmate, delinquent, neglected, custody, etc., is prohibited in the processes pertaining to the child under this Act.

(f) *Principles of non-waiver of rights:* No waiver of rights of the child, whether by himself or the competent authority or anyone acting or claiming to act on behalf of the child is either permissible or valid. Non-exercise of a fundamental right does not amount to waiver.

(h) *Principle of equality:* Equality of access, equality of opportunity, equality under the said Act, is guaranteed to the child; and as such there shall be no discrimination on the basis of age, sex, place of birth, disability, race, ethnicity, status, caste, cultural practices, work, activity or behaviour of the child or that of his parents or guardians, or the civil and political status of the child.

(i) *Principle of right to privacy and confidentiality:* The child's rights to privacy and confidentiality shall be protected by all means and through all stages of the proceedings.

(j) *Principle of Fresh Start:* The principle of fresh start promotes new beginning for the child by ensuring erasure of his past records.

(k) *Principle of last resort:* Institutionalization of a child will be the last resort after reasonable enquiry and that too for the minimum possible duration.

(l) *Burden of Proof:* Whenever any offence is alleged to have been committed against a child, the burden of proving that such offence has not been committed by the accused shall lie on the accused.

(m) *Procedure for Children's evidence:* Whenever a child who is a victim of a crime is required to depose before any authority including this Court, the child shall not be exposed to the presence of the accused or the perpetrators of the crime.

(n) *Cross examination of child witness:* Whenever there is a need to cross examine a child witness, care shall be taken to see that the tender age or in case of a victim, the psychological condition of the child is taken into consideration and the Children's Court may adopt such procedures which are fair and suitable to the child.

(o) *Deposit of fine prior to trial:* Whenever the offence alleged involves a fine, in order to ensure the attendance of the accused during the proceedings and compliance of the Court's directives and others thereafter, the Court may direct the accused to deposit 75% of the maximum fine leviable for that offence at the beginning of the trial itself.

(2) In all dealings with children, the Children's Court shall follow the following guidelines:—

(a) Child victims/witnesses are informed of their role in regard to court proceedings;

(b) Their views are allowed to be heard and respected;

(c) Inconvenience to them is minimized and their privacy is respected;

(d) Delays in the proceedings are reduced;

(e) Aggressive questioning or cross examination of child victims is avoided and the same, if necessary, is done through the judge;

(f) Provisions are made for trials in camera;

(g) The identity of the child victim is protected;

(h) Child victims are prepared for the judicial process and prosecution of alleged abusers is not rushed if a child is not ready to go to court;

(i) The investigator ascertains the need for medical examination of the child victim and when examination is undertaken, ensures that multiple re-examination is avoided;

(j) The medical examination should be conducted in the presence of the

parent/guardian and social worker/counsellor as far as possible;

(k) Child's testimony should be recorded in the presence of a social worker/counsellor as early as possible after the abusive incident with other witnesses at hand;

(l) Adequate translation/ interpretations and translators/ interpreters who are sensitive to the children's needs should be provided wherever needed.

(m) In case of a mentally challenged child, the competent service provider should depose on behalf of the child;

(n) The special needs of the child victims/ witnesses should be catered for. These should include the following:-

(i) Enable children to familiarise themselves with the court surroundings;

(ii) Inform children of the different roles of the key persons at court, such as the judge, the defence lawyer and the prosecutor;

(iii) Inform the court of the special needs of children in general and of individual children in specific cases;

(iv) Help children to be comfortable in the proceedings;

(v) Encourage questionings to be short and clear so as not confuse child witnesses;

(vi) Permit children below eight years of age to respond to leading questions facilitated by a social worker.

33. *Offences to be cognizable.*— Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) any offence punishable under this Act shall be cognizable.

34. *Exclusion.*— No other Court, civil or criminal, shall have jurisdiction to decide or deal with any offence or any question or any dispute

or any liability which by or under this Act is to be decided by the Children's Court, except by appeal to the High Court or Supreme Court.

35. *Act to override Laws.*— Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

36. *Duty of Government to ensure effective implementation of the Act.*— The State Government shall take such measures as may be necessary for the effective implementation of this Act.

37. *Powers to make rules.*— The State Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

38. *Power to remove difficulties.*— (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may by Order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary or expedient for removal of the difficulty:

Provided that no order shall be made under this section after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

39. *Jurisdiction of Civil Courts barred.*— No Civil Court shall have jurisdiction in respect of any matter in relation to which the Competent Authority or the Director or any other person authorized by the Competent Authority or authority appointed or specified by or under this Act, is empowered by or under this Act to exercise any power, and no injunction shall be

granted by any Civil Court in respect of anything which is done or intended to be done by or under this Act.

40. *Protection of action taken in good faith.*— No suit, prosecution or other legal proceedings shall lie against the Competent Authority, Director or any other person authorized by the Competent Authority or Director for anything which is done in good faith or intended to be done in pursuance of this Act or any rule made there under.

41. *Bar of suits and prosecutions.*— No suit, prosecution or other proceedings shall lie against the Government or any officer of the Government, or against any person appointed under this Act, for any act done or purporting to be done under this Act, without the previous sanction of the Government.

Secretariat Annexe,
Panaji-Goa.
Dated: 14th July, 2003.

L. S. SHETTY,
Secretary to the Govt. of Goa,
Law Dept. (Legal Affairs).